[Insert initials]
[insert date] cd 6.1.18

FIRST AMENDMENT TO
THE SAN JOSE DOWNTOWN PROPERTY-BASED BUSINESS IMPROVEMENT DISTRCT AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
THE DOWNTOWN PROPERTY OWNERS ASSOCATION
AND THE SAN JOSE DOWNTOWN ASSOCIATION

This FIRST AMENDMENT TO AGREEMENT is entered into this _1_ day of __July__, 2018, by the CITY OF SAN JOSE ("CITY"), a municipal corporation, and THE SAN JOSE DOWNTOWN PROPERTY OWNERS ASSOCIATION, a California non-profit corporation ("CONTRACTOR") AND THE SAN JOSE DOWNOTWN ASSOCIATION, a California non-profit corporation ("SJDA").

RECITALS

WHEREAS, on January 1, 2013, CITY and CONTRACTOR entered into an agreement entitled "AGREEMENT BETWEEN THE CITY OF SAN JOSE AND THE SAN JOSE DOWNTOWN PROPERTY OWNERS ASSOCIATION AND SAN JOSE DOWNTOWN ASSOCIATION FOR THE MANAGEMENT AND DELIVERY OF SERVICES FOR THE SAN JOSE DOWNTOWN PROPERTY-BASED BUSINESS IMPROVEMENT DISTRICT" ("AGREEMENT"); and

WHEREAS, on July 1, 2018, CITY and CONTRACTOR entered into a First Amendment to the AGREEMENT to amend the baseline services funding to include a one time increase to baseline funding for the remaining term of the AGREEMENT and

NOW, THEREFORE, the parties agree to amend the AGREEMENT as follows:

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

[Insert initials] [insert date] 6/1/18

SECTION 1. Subsection D.1 of SECTION 4, "COLLECTION AND DISBURSMENT OF BASELINE AND ASSESSMENT FUNDS" is amended to read as follows:

1. The March 15 payments will include approximately one half of the annual net of the assessment funds to provide enhanced services for the January to June timeframe of each calendar year. The August 15 payments will include roughly one half of the annual net of the assessment funds to provide enhanced services for the July to December timeframe of each calendar year; and subject to the appropriation of Council, all of the $365,000 in baseline services funding to provide those services for the entire fiscal year. The established annual baseline funding will be increased from $365,000 to $395,000 at the beginning of Fiscal Year 2018-19. No additional increases are anticipated for the remainder of the term for this agreement, which expires December 31, 2022. The Parties agree that the current value of the Baseline Service level is approximately $395,000, however in the event the cost to deliver the Baseline Service level is reduced during the term of the Agreement, the City may redirect the remaining difference in available baseline funding to other cleaning and maintenance activities within the District. The City will consult with the Downtown Association on re-directing the remaining difference in funding in terms of types of cleaning and maintenance activities. No upward adjustment to the Baseline Services funding shall be made during the term of this Agreement. Any payment for Baseline Services is subject to annual appropriation by the City Council in its sole discretion. Failure by the City Council to appropriate funds shall not constitute a breach of this Agreement, but may be subject to the reduction in Assessed Services as set forth in the Engineer's Report.

SECTION 2. All of the terms and conditions of the original, AGREEMENT not specifically modified by this Amendment shall remain in full force and effect.

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[Insert initials]
[insert date]

WITNESS THE EXECUTION HEREOF on the day and year first written above.

"CITY"

CITY OF SAN JOSE, a municipal corporation

APPROVED AS TO FORM:

By_____
Name: TONI J. TABER, CMC
Title: City Clerk

_____
Jon Calegari
Deputy City Attorney

"CONTRACTOR"

THE SAN JOSE DOWNTOWN PROPERTY OWNERS ASSOCIATION, a California non-profit corporation

By_____
Name: Chuck Hammers
Title: President

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[Insert initials]
[insert date]

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